



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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Doug Domenech
Secretary of Natural Resources

David K. Paylor
Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO Courtland USA, L.L.C. Storm Water Registration No. VAR050281

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Courtland USA, L.L.C., for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Courtland USA" means Courtland USA, L.L.C., a limited liability company authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Courtland USA is a "person" within the meaning of Va. Code § 62.1-44.3.
3. "CSCE" means a comprehensive site compliance evaluation.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "DMR" means Discharge Monitoring Report.

7. "Facility" means the Courtland USA automobile salvage yard located at 28265 Southampton Parkway, Courtland, Southampton County, Virginia, at which used automobiles are dismantled for the purpose of selling and recycling used automobile parts and/or scrap metal.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
10. "Permit" means VPDES General Permit No. VAR05 for Storm Water Discharges Associated with Industrial Activity, which was effective July 1, 2004, and expired June 30, 2009, and which was renewed effective July 1, 2009, and expires June 30, 2014.
11. "Registration statement" means a registration statement for storm water discharges under 9 VAC 25-151-60.
12. "Regulation" means the VPDES General Permit for Storm Water Discharges Associated with Industrial Activity, 9 VAC 25-151-10 *et seq.*
13. "Sector M" means Industry Sector M defined by the Regulation as that sector of industry engaged, in part, in dismantling or wrecking used motor vehicles for parts recycling/resale and for scrap.
14. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
15. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
16. "SWP3" means a storm water pollution prevention plan.
17. "305(b) report" means the report required by Section 305(b) of the Clean Water Act [33 United States Code § 1315(b)] and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
18. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.

21. "VPDES" means Virginia Pollutant Discharge Elimination System.
22. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Courtland USA owns and operates the Facility in Southampton County, Virginia. Storm water discharges from the Facility are subject to the Permit through Registration No. VAR050281. Storm water from the Facility discharges to the Nottoway River.
2. The Nottoway River is located in the Chowan River/Dismal Swamp Basin. This segment of the Nottoway River is not listed as impaired in DEQ's 305(b) report.
3. Part I.A.1.a. of the Permit requires Courtland USA to perform and document quarterly visual examinations of the quality of the storm water discharging from the two storm water outfalls (Outfalls 001 and 002) identified in the Permit.
4. Part I.A.1.b and Part IV.C (for Sector M) of the Permit require Courtland USA to conduct benchmark monitoring of storm water discharges from the Facility's permitted storm water outfalls for the presence of four pollutants of concern (total suspended solids, aluminum, iron, and lead) once during each benchmark monitoring period and record benchmark monitoring results on a DMR. Part I.A.1.b also requires that the DMR be signed and that the information (e.g., date, amount and duration) concerning the storm event during which the benchmark sample was taken be recorded thereon. Before July 1, 2009, the Permit required that DMRs be retained at the Facility with the Facility SWP3. The renewed Permit, effective July 1, 2009, now requires that DMRs also be submitted to DEQ.
5. DEQ staff had conducted a routine compliance inspection on May 6, 2008, and noted failures to update the Facility SWP3, to properly maintain the Facility, and to perform quarterly visual examinations of storm water quality, benchmark monitoring of storm water discharges, Facility inspections, CSCEs, and the training of Facility employees in storm water pollution prevention, among other things. These deficiencies were noted in a Warning Letter dated June 2, 2008.
6. During a DEQ Facility inspection on September 28, 2010, DEQ staff documented the following compliance deficiencies with respect to the monitoring requirements of the Permit:
 - a. The quarterly visual examinations of storm water quality required by Part I.A.1.a of the Permit had not been performed.

- b. The DMRs reporting benchmark monitoring of storm water discharges for the July 1 to December 31, 2009, benchmark monitoring period were not signed and did not record storm-event information as required by Part I.A.1.b of the Permit.
7. Courtland USA violated conditions Part I.A.1.a and Part I.A.1.b of the Permit as noted in paragraph C(6) of this Order.
8. Courtland USA is required to develop and implement a Facility SWP3 according to requirements outlined in Part III and Part IV.B (for Sector M) of the Permit.
9. Part III.A of the Permit requires Courtland USA to update the Facility SWP3 to incorporate additional SWP3 provisions required by the 2004 and 2009 Permit revisions.
10. Part III.B.6.b(2) of the Permit requires that industrial materials and activities at the Facility be protected from exposure to rain and storm-water runoff.
11. Part III.B.6.b(5) and Part IV.B.2.b (for Sector M) of the Permit requires that the Facility be inspected at least quarterly for compliance with the Facility SWP3.
12. Part III.B.6.b(6) of the Permit requires that the training of Facility employees in storm water pollution prevention be recorded in the Facility SWP3.
13. Part III.E of the Permit requires that a CSCE be conducted at least annually.
14. During the DEQ Facility inspection on September 28, 2010, DEQ staff documented compliance deficiencies with respect to the SWP3 requirements of the Permit, including the following:
 - a. The Facility SWP3 had not been updated to incorporate the changes to the SWP3 that had been added by the 2004 and 2009 Permit revisions as required by Part III.A of the Permit.
 - b. Industrial materials being stored at the Facility were not protected to prevent exposure to rain and storm-water runoff as required by Part III.B.6.b(2) of the Permit; specifically, transmissions, engine assemblies and other drive-train components were staged outside not under cover.
 - c. The quarterly Facility inspections required by Part III.B.6.b(5) and Part IV.B.2.b (for Sector M) of the Permit had not been conducted.
 - d. The training of Facility employees in storm water pollution prevention had not been recorded in the Facility SWP3 as required by Part III.B.6.b(6) of the Permit.
 - e. An annual CSCE had not been performed as required by Part III.E of the Permit
15. Based on the results of the September 28, 2010, inspection, the Board concludes that Courtland USA has violated conditions Part III.A, Part III.B.6.b(2), Part III.B.6.b(5), Part

III.B.6.b(6), Part III.E, and Part IV.B.2.b (for Sector M) of the Permit as noted in paragraph C(14) of this Order.

16. On November 8, 2010, DEQ issued NOV W2010-10-T-1002 to Courtland USA. The NOV advised Courtland USA of the violations of Permit conditions Part I.A.1.a, Part I.A.1.b, Part III.A, Part III.B.6.b(2), Part III.B.6.b(5), Part III.B.6.b(6), Part III.E, and Part IV.B.2.b (for Sector M) revealed during the inspection conducted by DEQ staff on September 28, 2010.
17. A representative of Courtland USA responded to the report of the September 28, 2010, compliance inspection by undated letter (received at DEQ on November 9, 2010) indicating that the housekeeping deficiencies had been corrected and requesting compliance assistance. The representative met with DEQ staff on November 23, 2010, to discuss the NOV. DEQ staff outlined the requirements of the General Permit and provided the representative of Courtland USA copies of forms for his use in completing quarterly Facility inspections, quarterly visual examinations of storm water quality, annual training, and the annual CSCE. The representative noted a preference to contract for assistance in complying with the Permit and was given a directory of local environmental consultants who are familiar with the requirements of the Permit.
18. In order for Courtland USA to complete its return to compliance, DEQ staff and representatives of Courtland USA have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Courtland USA, and Courtland USA agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$5,740 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Courtland USA shall include its Federal Employer Identification Number (FEIN) (54-1052527) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Courtland USA for good cause shown by Courtland USA, or on its own motion pursuant to the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Courtland USA admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Courtland USA consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Courtland USA declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Courtland USA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Courtland USA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Courtland USA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Courtland USA shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are

anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Courtland USA intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Courtland USA. Nevertheless, Courtland USA agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Courtland USA petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Courtland USA.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Courtland USA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.


12. Any plans, reports, schedules or specifications attached hereto or submitted by Courtland USA and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Courtland USA certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and

legally bind Courtland USA to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Courtland USA.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Courtland USA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 19 day of April, 2011.


Acting Regional Director
Department of Environmental Quality

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Courtland USA, L.L.C. voluntarily agrees to the issuance of this Order.

Date: 1/26/11 By: Harold Koch, owner
(Person) (Title)
Courtland USA, L.L.C.

Commonwealth of Virginia

City/County of Southampton

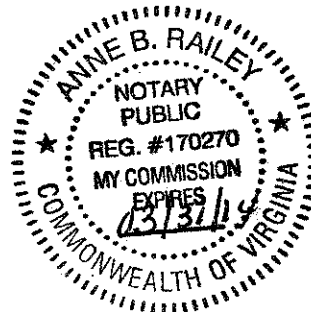
The foregoing document was signed and acknowledged before me this 26th day of
January, 2011, by Harold Koch who is
owner of Courtland USA, L.L.C., on behalf of the company.

Anne B. Railey
Notary Public

170270
Registration No.

My commission expires: 03/31/14

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Courtland USA shall:

1. By June 1, 2011, either: (a) submit to DEQ Tidewater Regional Office a certification that Courtland USA has ceased automobile dismantling and recycling activities at the Facility and request that the Facility's coverage under the Permit be terminated; or (b) comply with the Schedule of Compliance outlined in Item 2 below.
2. In the event Courtland USA continues automobile dismantling and recycling activities at the Facility after June 1, 2011, it shall:
 - a. By June 1, 2011, submit to DEQ Tidewater Regional Office for review and approval an updated Facility SWP3 that contains all elements required by Part III and Part IV.B (for Sector M) of the Permit. The SWP3 shall specifically include storm water controls that will be implemented at the Facility to reduce the levels of iron and aluminum in the storm water discharging from the Facility to levels below the benchmark concentrations established in the Permit for those pollutants of concern.
 - b. By July 10, 2011, submit to TRO the reports of all Facility inspections and visual examinations of storm water quality conducted between September 28, 2010, and June 30, 2011, to ensure compliance with the Facility SWP3 and the Permit, and of any training of Facility employees in storm water pollution prevention conducted during that period.
 - c. By October 10, 2011, January 10, 2012, and April 10, 2012, submit to DEQ Tidewater Regional Office, reports of any training of Facility employees in storm water pollution prevention and of all Facility inspections and visual examinations of storm water quality conducted by or on behalf of Courtland USA to ensure compliance with the Facility SWP3 and the Permit during the preceding three-month period. Reports shall include any corrective action taken in response to deficiencies noted during any inspection or examination.
 - d. Perform benchmark monitoring of both outfalls twice during calendar year 2011, once during the period January through June 2011 and once during the period July through December 2011. The two sampling events will be at least 30 days apart and will be reported to DEQ on DMRs by July 10, 2011, and January 10, 2012, respectively.
 - e. Comply with all conditions of the Permit.

3. Mail all submittals and reports required by this Appendix A to:

Regional Director
DEQ, Tidewater Regional Office
5636 Southern Boulevard
Virginia Beach, VA 23462